

Application No: 10/773,226
Attorney's Docket No: ALC 3117

REMARKS/ARGUMENTS

Claims 1-17, 19-30, 33, 34, 36-41 and 43-45 are pending in this application. Claims 1, 13, 14, 17, 30, 33, 34, 37 and 43 are amended. Claims 18, 31, 32, 35 and 42 are cancelled without prejudice to, or disclaimer of, the subject matter recited therein.

Claim 13 is amended to correspond to claim 32 in independent form, including all of the subject matter recited in intervening claim 31 and dependent claim 32. Thus, claims 31 and 32 are cancelled.

Claim 14 is amended to be rewritten in independent form corresponding to claim 42, including all of the subject matter recited in base claim 13, intervening claim 14 and dependent claim 42. Thus, claim 42 is cancelled.

Claims 17 is amended to be rewritten in a manner corresponding to claim 18 in independent form, including all of the subject matter recited in base claim 13, intervening claim 17 and dependent claim 18. Thus, claim 18 is cancelled.

Claims 33 and 37 are amended to be rewritten in independent form, including all of the subject matter recited in base claim 13 and intervening claim 17, from which they depended.

Rejections Under 35 U.S.C. § 112

In section 2 on page 2, claims 1-45 are rejected under 35 U.S.C. §112, 2nd paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

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Claims 1, 13, 34 and 43 are amended to address the issues of antecedent basis raised in the rejection. It is respectfully submitted that claims 1, 13, 34 and 43 are definite. For at least the foregoing reasons, it is respectfully requested that the rejection of claims 1, 13, 34 and 43 as allegedly being indefinite be withdrawn.

In section 4 on page 3, claim 35 is rejected under 35 U.S.C. §112, 1st paragraph, as allegedly failing to comply with the enablement requirement. This rejection is respectfully traversed.

Claim 35 is cancelled without prejudice to, or disclaimer of, the subject matter recited therein. For at least this reason, it is respectfully requested that the rejection of claim 35 as allegedly failing to comply with the enablement requirement be withdrawn.

Rejections Under 35 U.S.C. § 102

In section 11 on pages 10-11, claims 13-15, 36 and 40 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Publication No. 2004/0078626 to Li (hereinafter "Li"). This rejection is respectfully traversed.

Claim 13 is amended to correspond to claim 32 in independent form, including all of the subject matter recited in intervening claim 31 and dependent claim 32. Applicant respectfully submits that claim 13 is allowable for the reasons stated below in connection with the rejection of claim 32.

Claim 14 is amended to be rewritten in independent form corresponding to claim 42, including all the subject matter recited in base claim 13, intervening claim 14 and dependent

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claim 42. Applicant respectfully submits that claim 14 is allowable for the reasons stated below in connection with the rejection of claim 42.

Claims 15 and 36 are allowable based at least on their dependence from claim 13 for the reasons stated above in connection with claim 13. Claim 40 is allowable based at least on its dependence from claim 14 for the reasons stated above in connection with claim 14.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 13-15, 36 and 40 as allegedly being anticipated by Li be withdrawn.

Rejections Under 35 U.S.C. § 103

In section 6 on pages 3-6, claims 1-2 and 9-12 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of U.S. Patent No. 5,185,779 Dop et al. (hereinafter "Dop"). This rejection is respectfully traversed.

Claim 1 is amended to incorporate subject matter recited in claim 14 and in claim 42, which depended from claim 14. Applicant respectfully submits that claim 1 is allowable for at least the reasons stated below in connection with the rejection of claim 42.

Claims 2 and 9-12 are allowable based at least on their dependence from claim 1 for the reasons stated above in connection with claim 1.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 1-2 and 9-12 as allegedly being unpatentable over Li in view of Dop be withdrawn.

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In section 7 on pages 6-7, claims 3-5 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Dop and further in view of U.S. Patent No. 6,965,775 to Antoniou et al. (hereinafter "Antoniou"). This rejection is respectfully traversed.

Claims 3-5 are allowable based at least on their dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 3-5 as allegedly being unpatentable over Li in view of Dop and further in view of Antoniou be withdrawn.

In section 8 on pages 8-9, claims 6 and 8 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Dop and further in view of U.S. Patent No. 6,597,658 to Simmons (hereinafter "Simmons"). This rejection is respectfully traversed.

Claims 6 and 8 are allowable based at least on their dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 6 and 8 as allegedly being unpatentable over Li in view of Dop and further in view of Simmons be withdrawn.

In section 9 on pages 9-10, claim 7 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Dop and Simmons and further in view of U.S. Patent No. 6,714,534 to Gerszberg et al. (hereinafter "Gerszberg"). This rejection is respectfully traversed.

Claim 7 is allowable based at least on its dependence from claim 1 for the reasons stated above in connection with the rejection of claim 1.

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For at least the foregoing reasons, it is respectfully requested that the rejection of claim 7 as allegedly being unpatentable over Li in view of Dop and Simmons and further in view of Gerszberg be withdrawn.

In section 13 on pages 12-13, claims 16, 20 and 22 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Antoniou. This rejection is respectfully traversed.

Claims 16, 20 and 22 are allowable based at least on their dependence from claim 13, for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 16, 20 and 22 as allegedly being unpatentable over Li in view of Antoniou be withdrawn

In section 14 on pages 13-15, claims 17-18, 21 and 37-39 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of U.S. Patent Publication No. 2002/0075868 to Gupta et al. (hereinafter "Gupta"). This rejection is respectfully traversed.

Claim 17 is amended to be rewritten in a manner corresponding to claim 18 in independent form, including all the subject matter recited in base claim 13, intervening claim 17 and dependent claim 18. Thus, claim 18 is cancelled without prejudice to, or disclaimer of, the subject matter recited therein.

Accordingly, claim 17 recites, "wherein said step of filtering comprises adapting the bandwidth of said wireline link to the bandwidth of said wireless link by discarding low priority data from said user traffic." With respect to this subject matter the Office Action relies on subject matter disclosed in the first two lines of the first column of page 10 of Gupta. However,

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the disclosure in Gupta that, "low priority data packets are dropped" does not disclose, teach or suggest a step of filtering that comprises adapting the bandwidth of said wireline link to the bandwidth of said wireless link in the process of dropping the low priority data packets.

The Office Action does not rely on Li with respect to the subject matter in claim 17 quoted above. Applicant respectfully submits that the Office Action's decision not to rely on Li with respect to this subject matter is correct for the reason that Li does not disclose, teach or suggest this subject matter either.

Regarding claim 21, the claim recites, "buffering." In the rejection of claim 19, the Office Action correctly concedes that the combination of Li and Gupta does not disclose, teach or suggest buffering as recited. However, in the rejection of claim 19, the Office Action relies on Simmons with respect to the subject matter. Thus, Applicant respectfully submits that the rejection of claim 21 should have been characterized as a rejection based on the combination of Li in view of Gupta and further in view of Simmons as was the case with the rejection of claim 19. Further regarding claim 21, the claim is allowable based at least on its dependence from claim 13 for the reasons stated above in connection with claim 13.

Claim 37 is amended to be rewritten in independent form, including all of the subject matter recited in base claim 13 and intervening claim 17, from which claim 37 depended. Accordingly, claim 37 recites, "maintaining said wireless link available only on request." With respect to this subject matter, the Office Action relies on the quoted portions of Gupta. However, Gupta does not disclose, teach or suggest maintaining said wireless link available only on a request. It appears the Office Action has mischaracterized the "link connect request signal"

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disclosed in Gupta. The link connect request signal does not maintain the wireless link available only on request as recited.

The Office Action does not rely on Li with respect to the subject matter from claim 37 quoted above. Applicant respectfully submits that the Office Action's decision not to rely on Li with respect to this subject matter is correct for the reason that Li does not disclose, teach or suggest this subject matter either.

Claims 38 and 39 are allowable based at least on their dependence from claim 17 for reasons stated above in connection with claim 17.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 17-18, 21 and 37-39 as allegedly being unpatentable over Li in view of Gupta be withdrawn.

In section 15 on pages 15-16, claim 19 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Gupta and further in view of U.S. Patent No. 7,023,845 to Simons et al. (hereinafter "Simons"). This rejection is respectfully traversed.

Claim 19 is allowable based at least on its dependence from claim 17 for the reasons stated above in connection with the rejection of claim 17.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 19 as allegedly being unpatentable over Li in view of Gupta and further in view of Simons be withdrawn.

In section 16 on pages 17-18, claims 23, 25 and 27 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Simmons. This rejection is respectfully traversed.

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Claims 23, 25 and 27 are allowable based at least on their dependence from claim 13 for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 23, 25 and 27 as allegedly being unpatentable over Li in view of Simmons be withdrawn.

In section 17 on page 18, claim 24 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Antoniou and further in view of Simmons. This rejection is respectfully traversed.

Claim 24 is allowable based at least on its dependence from claim 13 for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 24 as allegedly being unpatentable over Li in view of Antoniou and further in view of Simmons be withdrawn.

In section 18 on pages 18-19, claim 26 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Simmons and further in view of Gerszberg. This rejection is respectfully traversed.

Claim 26 is allowable based at least on its dependence from claim 13 for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 26 as allegedly being unpatentable over Li in view of Simmons and further in view of Gerszberg be withdrawn.

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In section 19 on pages 19-20, claim 28 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of U.S. Patent Publication No. 2005/0157707 to Sternagle (hereinafter "Sternagle"). This rejection is respectfully traversed.

As a preliminary matter, Applicant notes that Sternagle is only available as prior art by relying on the filing date of the parent application from which Sternagle is a divisional application. Applicant is unaware that the parent application in Sternagle provides support for the subject matter relied upon in the Office Action with respect to claim 28. However, claim 28 is allowable based at least on its dependence from claim 13 for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 28 as allegedly being unpatentable over Li in view of Sternagle be withdrawn.

In section 20 on page 20, claim 29 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of U.S. Patent Publication No. 2005/0152385 to Cioffi (hereinafter "Cioffi"). This rejection is respectfully traversed.

Claim 29 is allowable based at least on its dependence from claim 13 for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 29 as allegedly being unpatentable over Li in view of Cioffi be withdrawn.

In section 21 on page 21, claim 30 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Dop. This rejection is respectfully traversed.

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The Office Action correctly concedes that Li does not disclose, teach or suggest the subject matter recited in claim 30. With respect to this subject matter, the Office Action relies on an alleged disclosure in Dop of "a loss of signal." However, the recitation in claim 30 of, "a loss of signal" has been removed from the claim.

Claim 30 recites, "wherein said false signal is generated based on detection of absence of a signal within a time-out interval, or a failure to respond to an active health test condition." The Office Action does not allege that either Li or Dop disclose, teach or suggest the subject matter quoted above. Applicant respectfully submits that the Office Action's decision not to allege that Li or Dop disclose, teach or suggest this subject matter is correct for the reason that neither Li nor Dop disclose, teach or suggest the subject matter quoted above.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 30 as allegedly being unpatentable over Li in view of Dop be withdrawn.

In section 22 on pages 21-22, claims 31-32 and 34 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of U.S. Patent No. 6,598,228 to Smyth et al. (hereinafter "Smyth"). This rejection is respectfully traversed.

With respect to claim 34, the claim is allowable based at least on its dependency from claim 33 for the reasons stated below in connection with the rejection of claim 33.

Claims 31 and 32 are cancelled without prejudice to, or disclaimer of, the subject matter recited therein. That subject matter is incorporated into claim 13 and discussed above in connection with the rejection of claim 13.

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The subject matter of claim 32, now incorporated into claim 13, recites, "wherein said false signal is generated in response to a degraded performance detected on said wireline and said degraded performance includes an increased bit error rate, packet loss, excessive latency or jitter." With respect to this subject matter, the Office Action relies on a disclosure of monitoring a rising number of error signals disclosed in column 9, lines 66-67 of Smyth. However, monitoring a rising number of error signals is not a disclosure, teaching or suggestion of any of an increase bit error rate, packet loss, excessive latency or jitter.

For at least the foregoing reasons, it is respectfully submitted that the subject matter previously recited in claim 32, now recited in claim 13, is allowable over the combination of Li and Smyth.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 31-32 and 34 as allegedly being unpatentable over Li in view of Smyth be withdrawn.

In section 23 on pages 22-23, claim 33 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Gupta and further in view of Smyth. This rejection is respectfully traversed.

Claim 33 recites, "wherein said fault signal is generated based on user-programmable link preferences." The Office Action correctly concedes that neither Li nor Gupta disclose, teach or suggest the subject matter quoted above. In order to overcome this correctly conceded deficiency in Li and Gupta, the Office Action relies on Smyth.

Specifically, with respect to this subject matter, the Office Action refers to Figure 4 of Smyth. Without explanation, the Office Action concludes that Figure 4 constitutes a disclosure,

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teaching or suggestion of the subject matter quoted above. However, nowhere in Figure 4 or the associated written description is there a disclosure of generating a fault signal based on user-programmable link preferences as recited in claim 33.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 33 as allegedly being unpatentable over Li in view of Gupta and further in view of Smyth be withdrawn.

In section 24 on pages 23-24, claim 41 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of U.S. Patent Publication No. 2006/0168336 to Koyanagi et al. (hereinafter "Koyanagi"). This rejection is respectfully traversed.

Claim 41 is allowable based at least on its dependence from claim 13 for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 41 as allegedly being unpatentable over Li in view of Koyanagi be withdrawn.

In section 25 on pages 24-25, claim 42 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of U.S. Patent Publication No. 2001/0043562 to Hrastar et al. (hereinafter "Hrastar"). This rejection is respectfully traversed.

Claim 42 is incorporated into claim 14 by this amendment. Accordingly, claim 42 is cancelled without prejudice to, or disclaimer of, the subject matter recited therein.

Claim 14 recites, "switching back said user traffic from said backup link on said wireline link at specific intervals and determining if said false signal has been cleared." The Office Action correctly concedes that Li does not disclose, teach or suggest the above-quoted subject

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matter. In order to overcome this correctly conceded deficiency in Li, the Office Action relies on Hrastar. In particular, the Office Action relies on the disclosure of Hrastar that, "if the cable router simply ceases sending routing messages, the other router waits a predetermined period of time and reroutes the packets via the the CATV system." See [0024].

Applicant respectfully submits that the Office Action mischaracterizes the disclosure of Hrastar. In particular, merely waiting a predetermined period of time to reroute packets does not constitute a disclosure, teaching or suggestion of switching user traffic at specific intervals to determine if a false signal has been cleared as recited now in claim 14 and previously recited in claim 42.

For at least the foregoing reasons, it is respectfully requested that the rejection of claim 42 as allegedly being unpatentable over Li in view of Hrastar be withdrawn.

In section 26 on page 25, claim 43 is rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Gupta and further in view of U.S. Patent No. 5,610,951 to Higginson et al. (hereinafter "Higginson"). This rejection is respectfully traversed.

Claim 43 is allowable based at least on its dependence from claim 14 for the reasons stated above in connection with the rejection of claim 14.

Further, we note that the rejection of claim 43 is improper based on the Office Action's admission regarding the deficiencies in Li in the rejection of claim 42, based on dependency from claim 14 which is amended to incorporate the subject matter recited in claim 42. Thus, the Office Action's rejection of claim 43 should be characterized as over Li in view of Gupta, further in view of Higginson, and still further in view of Hrastar.

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For at least the foregoing reasons, it is respectfully requested that the rejection of claim 43 as allegedly being unpatentable over Li in view of Gupta and further in view of Higginson be withdrawn.

In section 27 on pages 25-26, claims 44-45 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Li in view of Antoniou and further in view of U.S. Patent Publication No. 2003/0228093 to Notani (hereinafter "Notani"). This rejection is respectfully traversed.

Claims 44 and 45 are allowable based at least on their dependence from claim 13 for the reasons stated above in connection with the rejection of claim 13.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 44-45 as allegedly being unpatentable over Li in view of Antoniou and further in view of Notani be withdrawn.

CONCLUSION

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

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In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
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